

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ANDRE SMITH,

Plaintiff,

vs.

ANTHONY RIVARA et al.,

Defendants.

3:12-cv-00556-RCJ-WGC

ORDER

This case arises out of a bank's alleged failure to clear a check deposited by an acquaintance of pro se Plaintiff Andre Smith before Plaintiff himself attempted to cash it, ultimately resulting in a \$900 loss. Plaintiff asks for relief in the amount of \$25,900 based upon fraud, perjury, and the Sixteenth Amendment. First, the Court denies the Motion to Transfer Venue (ECF No. 1). Plaintiff has waived any challenge to venue by filing his action here. Second, the Court will order Plaintiff to show cause why the case should not be dismissed for lack of subject matter jurisdiction or failure to state a claim. Actions under state law in the federal courts only lie if the parties are completely diverse and the amount in controversy exceeds \$75,000. *See* 28 U.S.C. § 1332(a). Here, Plaintiff has specifically alleged facts negating diversity. Furthermore, perjury is not a common law cause of action, Plaintiff has failed to plead fraud with particularity, and Plaintiff has not served any Defendant. Although a federal claim could support supplementary jurisdiction over the state law claims, there is no cause of action to enforce the Sixteenth Amendment, which concerns the United States' power to levy income taxes against individuals.

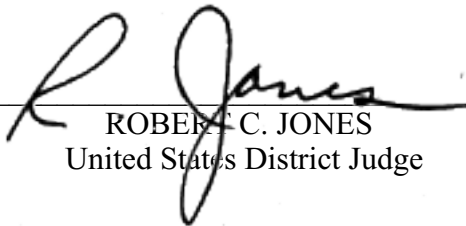
CONCLUSION

IT IS HEREBY ORDERED that the Motion to Transfer Venue (ECF No. 1) is DENIED.

IT IS FURTHER ORDERED that Plaintiff shall show cause within fourteen (14) days of the entry of this order into the electronic docket why the case should not be dismissed for failure to state a claim.

IT IS SO ORDERED.

Dated this 26th day of April, 2013.


ROBERT C. JONES
United States District Judge